

**ASSEMBLY BILL**

**No. 14**

**Introduced by Assembly Member Canciamilla**

May 16, 2001

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An act to amend Sections 216, 222, and 228 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 14, as introduced, Canciamilla. Natural gas supplies.

(1) Existing law defines “public utility,” “gas corporation,” and “pipeline corporation” for purposes of the Public Utilities Act.

This bill would provide that the production, transportation, or sale of natural gas within this state by a corporation or person does not make the corporation or person a public utility, gas corporation, or pipeline corporation within the meaning of these definitions solely because of the production, transportation, or sale of natural gas, if the natural gas is of insufficient quality or heating value to make it acceptable for introduction into the line, plant, or system of a gas corporation or state or local agency, ~~and~~ is not provided or sold to more than 5 end-users, including any use by the corporation or person, *and the natural gas provided or sold to the end use customer is not resold by the end use customer.*

*The bill would require however, that a corporation or person that produces, transports, or sells natural gas within this state be subject to the jurisdiction of the Public Utilities Commission for compliance with all safety, service quality, and consumer protection standards applicable to public utilities, and subject to certain surcharges imposed on natural gas consumed in this state. Because a violation of an order by the commission is a crime under existing provisions of law, this bill*

would impose a state-mandated local program by expanding the scope of a crime.

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 216 of the Public Utilities Code is  
2 amended to read:

3 216. (a) “Public utility” includes every common carrier, toll  
4 bridge corporation, pipeline corporation, gas corporation,  
5 electrical corporation, telephone corporation, telegraph  
6 corporation, water corporation, sewer system corporation, and  
7 heat corporation, where the service is performed for, or the  
8 commodity is delivered to, the public or any portion thereof.

9 (b) Whenever any common carrier, toll bridge corporation,  
10 pipeline corporation, gas corporation, electrical corporation,  
11 telephone corporation, telegraph corporation, water corporation,  
12 sewer system corporation, or heat corporation performs a service  
13 for, or delivers a commodity to, the public or any portion thereof  
14 for which any compensation or payment whatsoever is received,  
15 that common carrier, toll bridge corporation, pipeline corporation,  
16 gas corporation, electrical corporation, telephone corporation,  
17 telegraph corporation, water corporation, sewer system  
18 corporation, or heat corporation, is a public utility subject to the  
19 jurisdiction, control, and regulation of the commission and the  
20 provisions of this part.

21 (c) When any person or corporation performs any service for,  
22 or delivers any commodity to, any person, private corporation,  
23 municipality, or other political subdivision of the state, that in turn  
24 either directly or indirectly, mediately or immediately, performs  
25 that service for, or delivers that commodity to, the public or any  
26 portion thereof, that person or corporation is a public utility subject

1 to the jurisdiction, control, and regulation of the commission and  
2 the provisions of this part.

3 (d) Ownership or operation of a facility that employs  
4 cogeneration technology or produces power from other than a  
5 conventional power source or the ownership or operation of a  
6 facility which employs landfill gas technology does not make a  
7 corporation or person a public utility within the meaning of this  
8 section solely because of the ownership or operation of that  
9 facility.

10 (e) Any corporation or person engaged directly or indirectly in  
11 developing, producing, transmitting, distributing, delivering, or  
12 selling any form of heat derived from geothermal or solar  
13 resources or from cogeneration technology to any privately owned  
14 or publicly owned public utility, or to the public or any portion  
15 thereof, is not a public utility within the meaning of this section  
16 solely by reason of engaging in any of those activities.

17 (f) The ownership or operation of a facility that sells  
18 compressed natural gas at retail to the public for use only as a  
19 motor vehicle fuel, and the selling of compressed natural gas at  
20 retail from that facility to the public for use only as a motor vehicle  
21 fuel, does not make the corporation or person a public utility  
22 within the meaning of this section solely because of that  
23 ownership, operation, or sale.

24 (g) Ownership or operation of a facility that has been certified  
25 by the Federal Energy Regulatory Commission as an exempt  
26 wholesale generator pursuant to Section 32 of the Public Utility  
27 Holding Company Act of 1935 (Chapter 2C (commencing with  
28 Section 79) of Title 15 of the United States Code) does not make  
29 a corporation or person a public utility within the meaning of this  
30 section, solely due to the ownership or operation of that facility.

31 (h) The ownership, control, operation, or management of an  
32 electric plant used for direct transactions or participation directly  
33 or indirectly in direct transactions, as permitted by subdivision (b)  
34 of Section 365, sales into the Power Exchange referred to in  
35 Section 365, or the use or sale as permitted under subdivisions (b)  
36 to (d), inclusive, of Section 218, shall not make a corporation or  
37 person a public utility within the meaning of this section solely  
38 because of that ownership, participation, or sale.

39 (i) The production, transportation, or sale of natural gas within  
40 this state by a corporation or person does not make the corporation

1 or person a public utility within the meaning of this section solely  
2 because of the production, transportation, or sale of natural gas, if  
3 ~~both~~ all of the following conditions exist:

4 (1) The natural gas is of insufficient quality or heating value to  
5 make it acceptable for introduction into the line, plant, or system  
6 of a gas corporation or state or local agency.

7 (2) The natural gas is not provided or sold to more than five end  
8 users, including any use by the corporation or person.

9 (3) *The natural gas provided or sold to an end use customer is*  
10 *not resold by the end use customer.*

11 (j) *A corporation or person described in subdivision (i) is*  
12 *subject to the jurisdiction of the commission for compliance with*  
13 *all utility safety, service quality, and consumer protection*  
14 *standards applicable to public utilities as defined in subdivision*  
15 *(a) of Section 216.*

16 (k) *Subdivision (i) may not result in any shift of costs to core*  
17 *customers of gas corporations.*

18 SEC. 2. Section 222 of the Public Utilities Code is amended  
19 to read:

20 222. (a) “Gas corporation” includes every corporation or  
21 person owning, controlling, operating, or managing any gas plant  
22 for compensation within this state, except where gas is made or  
23 produced on and distributed by the maker or producer through  
24 private property alone solely for his or her own use or the use of  
25 his or her tenants and not for sale to others.

26 (b) “Gas corporation” shall not include a corporation or person  
27 employing landfill gas technology for the production of gas for its  
28 own use or the use of its tenants or for sale to a gas corporation or  
29 state or local public agency, except that if the gas produced is of  
30 insufficient quality or heating value that it is unacceptable for  
31 introduction into the line, plant, or system of a gas corporation or  
32 state or local public agency, the person or corporation employing  
33 landfill gas technology may without becoming a gas corporation  
34 for purposes of this part sell the gas so produced to not more than  
35 four other corporations or persons.

36 (c) The production of natural gas within this state by a  
37 corporation or person does not make the corporation or person a  
38 gas corporation within the meaning of this section solely because  
39 of the production of natural gas, if ~~both~~ all of the following  
40 conditions exist:

1 (1) The natural gas is of insufficient quality or heating value to  
2 make it acceptable for introduction into the line, plant, or system  
3 of a gas corporation or state or local agency.

4 (2) The natural gas is not provided or sold to more than five end  
5 users, including any use by the corporation or person.

6 (3) *The natural gas provided or sold to an end use customer is*  
7 *not resold by the end use customer.*

8 (d) *A corporation or person described in subdivision (c) is*  
9 *subject to the jurisdiction of the commission for compliance with*  
10 *all utility safety, service quality, and consumer protection*  
11 *standards applicable to public utilities as defined in subdivision*  
12 *(a) of Section 216.*

13 (e) *Subdivision (c) may not result in any shift of costs to core*  
14 *customers of gas corporations.*

15 SEC. 3. Section 228 of the Public Utilities Code is amended  
16 to read:

17 228. (a) "Pipeline corporation" includes every corporation  
18 or person owning, controlling, operating, or managing any  
19 pipeline for compensation within this state.

20 (b) "Pipeline corporation" shall not include a corporation or  
21 person employing landfill gas technology and owning,  
22 controlling, operating, or managing any pipeline solely for the  
23 transmission or distribution of landfill gas or other form of energy  
24 generated or produced therefrom.

25 (c) The transportation of natural gas within this state by a  
26 corporation or person does not make the corporation or person a  
27 pipeline corporation within the meaning of this section solely  
28 because of the transportation of natural gas, if ~~both~~ *all* of the  
29 following conditions exist:

30 (1) The natural gas is of insufficient quality or heating value to  
31 make it acceptable for introduction into the line, plant, or system  
32 of a gas corporation or state or local agency.

33 (2) The natural gas is not provided or sold to more than five end  
34 users, including any use by the corporation or person.

35 (3) *The natural gas provided or sold to an end use customer is*  
36 *not resold by the end use customer.*

37 (d) *A corporation or person described in subdivision (c) is*  
38 *subject to the jurisdiction of the commission for compliance with*  
39 *all utility safety, service quality, and consumer protection*

1 standards applicable to public utilities as defined in subdivision  
2 (a) of Section 216.

3 (e) Subdivision (c) may not result in any shift of costs to core  
4 customers of gas corporations.

5 (f) Natural gas provided or sold to end users pursuant to  
6 subdivision (c) is subject to Article 10 (commencing with Section  
7 890) of Chapter 4. For purposes of complying with Article 10  
8 (commencing with Section 890) of Chapter 4, all persons  
9 consuming natural gas pursuant to subdivision (c) shall be treated  
10 as if the gas that is consumed was delivered by an interstate  
11 pipeline. However, the exemption for gas transported on  
12 proprietary pipelines contained in Section 896 does not apply to  
13 gas transported pursuant to subdivision (c).

14 SEC. 4. No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within  
21 the meaning of Section 6 of Article XIII B of the California  
22 Constitution.

